

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ESTELLE ROTHENBERG

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2489

Decision No. CU -711

AMENDED PROPOSED DECISION

By its Proposed Decision dated November 22, 1967, the Commission denied this claim for the reason that claimant had not met the burden of proof in that she had failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba.

Subsequently, claimant submitted additional evidence in support of this claim. Full consideration having been given to the entire record in this claim, it is

ORDERED that the Proposed Decision be amended to read as follows:

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by ESTELLE ROTHENBERG, and is based upon the asserted loss of \$300.00 sustained in connection with the ownership of a stock interest in Compania Litografica de la Habana, S.A. (Havana Lithographing Company), hereinafter referred to as Havana Lithographing. Claimant has been a national of the United States since her birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

On the basis of evidence of record, the Commission finds that claimant is, and since prior to October 13, 1960, has been, the owner of 100 shares of common stock of Havana Lithographing. The certificate representing the share in question is CLH 20944.

On October 13, 1960, the Government of Cuba published Law 890 in its Official Gazette, which listed as nationalized Compania Litografica de la Habana, S.A. Accordingly, the Commission finds that Havana Lithographing was nationalized by the Government of Cuba on October 13, 1960, and that claimant's interest in the enterprise was taken on that date.

In determining the value of the interest owned by claimant in Havana Lithographing, the Commission has considered an unaudited balance sheet, with supporting schedules, as of July 31, 1960, an affidavit of the former President of Havana Lithographing, appraisals and valuations of the assets of the corporation prepared in 1960 and 1967, and insurance values for all assets. On the basis of all evidence of record, the Commission finds that \$1,356,012.12 is the amount that would have been available at the time of loss for distribution among the 540,218 shares of common stock issued by Havana Lithographing. The Commission thus concludes that the dollar loss sustained in connection with the ownership of a common stock interest in Havana Lithographing was \$2.51 per share of common stock issued and held at the time of loss. (See: Claim of Central West Company, Claim No. CU-3440.)

Accordingly, in the instant claim, the Commission finds that claimant, as holder of 100 shares of the common stock of Havana Lithographing, suffered a loss in the amount of \$251.00 within the meaning of Title V of the Act, as a result of the nationalization of Havana Lithographing by the Government of Cuba on October 13, 1960.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of loss sustained by the claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ESTELLE ROTHENBERG suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Hundred Fifty-One Dollars (\$251.00) with interest at 6% per annum from October 13, 1960 to the date of settlement.

Dated in Washington, D.C.,
and entered as the Amended
Proposed Decision of the
Commission

MAY 15 1968

Leonard v. B. Sutton

~~Leonard v. B. Sutton, CHAIRMAN~~

Theodore Jaffe

~~Theodore Jaffe, COMMISSIONER~~

NOTICE TO THE TREASURY DEPARTMENT: The above listed certificate may have been returned to claimant and no payment should be made until it is resubmitted.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$300.00, was presented by ESTELLE ROTHENBERG based upon the asserted loss of stock interests in the Havana Lithographing Company of Cuba. Claimant asserts that she has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims of nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

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Section 504 of the Act provides, as to ownership of claims; that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership, by herself and her husband, since deceased, of certain stock interests in the Havana Lithographing Company of Cuba; however, claimant submitted no documentary evidence in support of here claim. Accordingly, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act.

On September 20, 1967, claimant was invited to submit any evidence she might have within 45 days from that date, and she was informed that, absent such evidence it might become necessary to determine the claim on the basis of the present record. Claimant has not responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

The Commission finds that claimant has not met the burden of proof, in that she has failed to establish ownership of rights and interests